

Senate Bill No. 431

CHAPTER 588

An act to amend Section 1203.9 of the Penal Code, relating to probation.

[Approved by Governor October 11, 2009. Filed with
Secretary of State October 11, 2009.]

LEGISLATIVE COUNSEL'S DIGEST

SB 431, Benoit. Probation: transfers.

Existing law provides that whenever any person is released upon probation, the case may be transferred to any court of the same rank in any other county in which the person resides permanently, provided that the court of the receiving county shall first be given an opportunity to determine whether the person does reside in and has stated the intention to remain in that county for the duration of probation. Existing law provides that if the court finds that the person does not reside in or has not stated an intention to remain in that county for the duration of probation, it may refuse to accept the transfer.

This bill would provide that the transfers would be mandatory, unless there is a determination on the record that the transfer would be inappropriate, as specified. The bill would require a noticed motion for the transfer for certain cases, as specified, and would require the Judicial Council to promulgate rules of court pertaining to the motion procedures, as specified.

The people of the State of California do enact as follows:

SECTION 1. Section 1203.9 of the Penal Code is amended to read:

1203.9. (a) Whenever a person is released on probation, the court, upon noticed motion, shall transfer the case to the superior court in any other county in which the person resides permanently, meaning with the stated intention to remain for the duration of probation, unless the transferring court determines that the transfer would be inappropriate and states its reasons on the record. Upon notice of the motion for transfer, the court of the proposed receiving county may provide comments for the record regarding the proposed transfer, following procedures set forth in rules of court developed by the Judicial Council for this purpose, pursuant to subdivision (e). The court and the probation department shall give the matter of investigating those transfers precedence over all actions or proceedings therein, except actions or proceedings to which special precedence is given by law, to the end that all those transfers shall be completed expeditiously.

(b) The court of the receiving county shall accept the entire jurisdiction over the case.

(c) Notwithstanding subdivision (a), whenever a person is granted probation under Section 1210.1, the sentencing court shall transfer jurisdiction of the entire case, upon a finding by the receiving court of the person's permanent residency in the receiving county, unless there is a determination on the record that the transfer would be inappropriate.

(d) The order of transfer shall contain an order committing the probationer to the care and custody of the probation officer of the receiving county and an order for reimbursement of reasonable costs for processing the transfer to be paid to the sending county in accordance with Section 1203.1b. A copy of the orders and probation reports shall be transmitted to the court and probation officer of the receiving county within two weeks of the finding that the person does permanently reside in or has permanently moved to that county, and thereafter the receiving court shall have entire jurisdiction over the case, with the like power to again request transfer of the case whenever it seems proper.

(e) The Judicial Council shall promulgate rules of court for procedures by which the proposed receiving county shall receive notice of the motion for transfer and by which responsive comments may be transmitted to the court of the transferring county. The Judicial Council shall adopt rules providing factors for the court's consideration when determining the appropriateness of a transfer, including, but not limited to, the following:

- (1) Permanency of residence of the offender.
- (2) Local programs available for the offender.
- (3) Restitution orders and victim issues.